

REMARKS OF HONORABLE HENRY A. WAXMAN

TRAC CONFERENCE ON THE FUTURE OF PRIME TIME TELEVISION

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Good afternoon and welcome to the TRAC Conference on "The Future of Prime Time Television." The number and variety of the groups here is heartening, for I believe the retention of the financial interest and syndication rules presents one of our nation's most pressing telecommunications issues.

By this time, after your full day of briefing and seminars, you are no doubt familiar with the background, purpose, and operation of the rules. Instead of providing you with yet another version of that history, I would like to talk briefly about the dispute over the effect of the rules, and why I have become involved in this issue.

You have likely heard two interpretations of the rules' impacts. The three major networks have coalesced around the rules, and argue they have been relegated to competing "with one hand tied behind our back."

Independent producers and several movie studios vigorously dissent from this view, and point to statistics indicating that the rules have brought greater diversity and competition to television. Particularly compelling are the figures showing that since adoption of the rules, the number of independent television stations has doubled, syndication program suppliers increased by almost 51%, prime time suppliers increased by 26%, and there have been significant successes in the first-run syndication market.

I formally entered this fray of statistics on December 1, 1982, when the Federal Communication Commission's Chairman, Mark Fowler, participated in an oversight hearing held by the House Energy and Commerce Committee's Telecommunication Subcommittee. During that hearing I asked Chairman Fowler why the FCC was considering repeal, and where the burden of proof would be in determining repeal. To be candid, I was not satisfied then, nor now, that the FCC is adequately answering these questions, and so I introduced a bill, H.R. 7347, codifying the existing rules into the United States Code.

There are several reasons why I feel the rules should not be repealed. As a member of the Telecommunications Subcommittee, I have been privileged to witness most of broadcasting's marvelous technological innovations of the past decade. Indeed, the geometric leap in technological sophistication has outpaced even Congress's ability to pass laws regulating new activities. I've noticed, by the way, that many view this situation as quite a pleasant happenstance. Most important, however, is that technological improvements have made television viewing better and more enjoyable.

Although technological innovations improve production techniques, unfortunately they cannot affect the content of a particular program. Content, for the time being, is still the product of human creativity and intellect. But today it is content I am concerned with, and its improvement since the adoption of the financial interest and syndication rules.

Indirectly, the rules ask three questions. What is being broadcast, why is it being broadcast, and can the present broadcasting be improved? Prior to adoption of the rules, television broadcasting was a closed shop. The creativity or merit of a program was insufficient to guarantee airtime--more important was whether a producer would transfer financial interest or syndication rights to the networks. If a producer refused and insisted on retaining those rights, then his program would probably not reach the public.

As the statistics I mentioned before indicate, the rules have brought an infusion of new creativity to television. Television is not perfect, but it offers a better product now than it did 12 years ago. Moreover, television has a better chance of improving with the rules than without them. For instance, we still see too many stereotypes on television, but not enough programs focusing and accurately portraying women and minorities. Television still seems caught in the "copycat syndrome," so that one successful show begets ten or twenty lesser quality carbons. But these defects have a greater chance of cure with the rules in place and widespread competition, than with repeal and the subsequent domination of three large companies.

As both a parent and a viewer I want improved content, and I have seen progress over the last twelve years. Television need not be a barren wasteland for our children or ourselves. Innovative programming can challenge us and bring far-ranging benefits. Alternatives to mindless programming exists, and it will continue to be available so long as

television is an open shop. In a closed shop, with less participants, the risks are fewer, the philosophy is more conservative, and the variety is less.

I have other concerns as well. Too often repeal is framed as a battle between two giants. This is not so. Affected by repeal are thousands of people working for small independent production companies. These companies have prospered under the financial interest and syndication rules, but repeal will drive them out of business. They will be the casualties in this so-called battle of the giants. But it seems to the networks a return to the "good old days" is television dominated by three massive companies, free to charge higher advertising fees due to less competition, and offering programming marked by less creativity.

During the Subcommittee's Oversight hearing Chairman Fowler told me the rules were being considered for repeal because all rules and regulations "bear a burden of justifying themselves." The suggestion is that all rules are suspect. It seems to me, however, that our telecommunications network has become too important in our society, and has too strong an impact on what information we receive and how we think, to risk a lessening of quality so the Administration can experiment with its preconceived notions on the merits of government regulation. If repeal of the rules is an appropriate action, we should be given clear and convincing proof of its advantages, and the burden of proof must fall squarely on those supporting repeal.

The litmus test for repeal might just be a review of several public interest questions, and I ask you give them your very careful consideration. Will repeal bring greater diversity to television? Will repeal cause greater competition among programmers and producers? Will repeal bring more frequent and accurate portrayals of women and minorities? Will repeal result in lower advertising costs on the networks? Will repeal create healthier and more independent television stations? And will repeal improve the content of the programming that we and our children watch? As I have studied these questions I find the answer to each is a resounding no. Repeal is not in the public's interest--in fact, I am unable to think of even one way in which the public would benefit from repeal.

For all these reasons I will continue to support retention of the rules, and will be reintroducing legislation codifying the rules in the near future. I hope I can count on your support in this most important fight.

Thank your very much.